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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,006	12/11/2003	Gerald P. McCann	7233-101	2300

167 7590 05/21/2004

FULBRIGHT AND JAWORSKI L L P
PATENT DOCKETING 29TH FLOOR
865 SOUTH FIGUEROA STREET
LOS ANGELES, CA 900172576

EXAMINER

ALI, MOHAMMAD M

ART UNIT PAPER NUMBER

3744

DATE MAILED: 05/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/735,006

Applicant(s)

MCCANN ET AL.

Examiner

Mohammad M Ali

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☒ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the location of the carbonator must be shown between the circulation pump and the heat transfer coil for claim 8 or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 3-5, 9 rejected under 35 U.S.C. 103(a) as being unpatentable over Bilskie et al. (6,021,922) in view of Riley et al. (5,996,842). Bilskie et al. disclose dispensing system comprising a carbonated water circulation circuit 82, a bar gun (See

column 7, line 48) in fluid communication with the carbonated water circulation circuit, a circulation pump 119 capable of inducing circulation in the carbonated water circulation circuit and a cold plate 48. Bilskie et al. disclose the invention substantially as claimed as stated above See Fig. 5.. However, Bilskie et al. do not disclose an ice storage bin including heat transfer coils. Riley et al. teach the use of an ice storage bin¹⁸ including heat transfer coils 30 in a dispensing system for the purpose of supply of cold drinks. See Fig.1 and 2. Therefore, it would have obvious to one having ordinary skill in the art at the time the invention was made to modify the dispensing system of Bilskie et al. in view of Riley et al. such that an ice storage bin including heat transfer coils could be provided in order to supply of cold drinks.

Claims 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bilskie et al. in view of Riley et al. as applied to claims 1, 3-5 above, and further in view of Flessler et al. (4,333,587). Bilskie et al. in view of Riley et al. disclose the invention substantially as claimed as stated above. However, Bilskie et al. in view of Riley et al. do not disclose a return line. Fessler et al. teach the use of return line 101/103 in a dispensing system for the purpose of dispensing drinks. See Fig. 1. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the dispensing system of Bilskie et al. in view of Riley et al. and further in view of Fessler et al. such that a return line could be provided in order to supply drinks in a desired manner.

Claims 6-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bilskie et al. in view of Riley et al. as applied to claims 1, 3-5 above, and further in

view of Booth (3,731,845). Bilskie et al. in view of Riley et al. disclose the invention substantially as claimed as stated above. However, Bilskie et al. in view of Riley et al. do not disclose a pump inducing flow from fluid communication with the bar gun/dispensing head toward fluid communication with the carbonator. Booth teaches the use of a pump 34 in a drink dispenser for the purpose of inducing flow from fluid communication with the bar gun /dispensing head toward fluid communication with the carbonator 11. See Fig. (only one Fig.). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the dispensing system of Bilskie et al. in view of Riley et al. and further in view of Booth such that a pump could be provided in order inducing flow from fluid communication with the bar gun/dispensing head toward fluid communication with the carbonator. Regarding having a specific location of the carbonator is an obvious choice of the individual skilled in the art since there is no criticality or unexpected result from it. Regarding claim 10, the pump 34 acts only one direction as a substitute of a check valve. For using a unidirectional pump or a pump is an obvious choice of the individual skilled in the art since there is no criticality or unexpected result from it.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bilskie et al. in view of Riley et al. as applied to claims 1, 3-5 above, and further in view of Hessel (4,979,647). Bilskie et al. in view of Riley et al. disclose the invention substantially as claimed as stated above. However, Bilskie et al. in view of Riley et al. do not disclose a method for cooling the carbonated water to 33 degree F or below. Hassell teaches to conduct a method for cooling a carbonated beverage/soft drink and

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dispensed at 32 degrees –36 degrees F in a dispensing system for the purpose of dispensing cold drinks. See abstract and column 1, lines 35-36. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the dispensing system of Bilskie et al. in view of Riley et al. and further in view of Hassell such that a method for cooling the carbonated water to 33 degree F or below could be provided in order to supply cold drinks in a.

Any inquiry concerning this communication or earlier from the examiner should be directed to Mohammad M. Ali, whose telephone number is (703) 308-5032. The examiner can be reached from 6:10am to 4:30pm from Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel, can be reached at (703) 308-2597. The fax number for the organization where this application or proceeding is assigned is 703-308-7764 for regular communications and after-final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.


Mohammad M. Ali

May 19, 2004